

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Transportation Trust Fund

April 1992



Performance Audit

***Daniel G. Kyle, Ph.D., CPA
Legislative Auditor***

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Transportation Trust Fund

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**Performance Audit
Office of Legislative Auditor
State of Louisiana**

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April 9, 1992

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Honorable Samuel B. Nunez, Jr.
President of the Senate
Honorable John A. Alario, Jr.
Speaker of the House of Representatives
and
Members of the Legislative Audit Advisory Council

Dear Legislators:

This is our performance audit of the Transportation Trust Fund. The audit was conducted under the provisions of Title 24 of the *Louisiana Revised Statutes of 1950, As Amended*. All performance audits are conducted in accordance with generally accepted government auditing standards.

The report presents our findings, conclusions, and recommendations as well as responses from the various agencies involved in administering the trust fund. We have also identified and reported several matters for legislative consideration.

Sincerely,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, Ph.D., CPA
Legislative Auditor

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T:TF



Office of Legislative Auditor

Executive Summary

Performance Audit

Transportation Trust Fund

The Transportation Trust Fund was established on January 1, 1990, to ensure a stable and dedicated revenue source for road and bridge maintenance and construction and other transportation purposes. Our study of the trust fund found that:

- ♦ The trust fund borrowed \$160 million from the TIME Account in fiscal years 1990 and 1991. Trust fund revenues have been insufficient to repay this loan. If the loan is not repaid, it may not be possible to complete all projects authorized by the TIME Act.
- ♦ The Transportation Trust Fund has received insufficient revenues to fund both operating expenses and all authorized projects. Appropriations are based on revenue estimates. Actual revenues have consistently fallen short of estimates.
- ♦ When the effect of inflation is considered, revenue from fuel taxes decreased between fiscal years 1985 and 1991—even though there was a four-cent tax increase in 1990.
- ♦ The Department of Transportation and Development lacks sufficient funding during the first three months of each fiscal year. Tax revenues have not been available because of both avoidable and unavoidable delays in tax collection, processing, and allocation.

Daniel G. Kyle, Ph.D., CPA, Legislative Auditor
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Audit Objectives

This study of the Transportation Trust Fund was conducted by the Performance Audit Group of the Office of Legislative Auditor. The trust fund had been the subject of considerable legislative interest since its creation in January 1990.

On October 7, 1989, the Louisiana Constitution (LSA-Const. Art. 7, Sect. 27) was amended to create the Transportation Trust Fund. The trust fund was proposed as a way to ensure a stable and dedicated revenue source for road and bridge maintenance and construction, statewide flood control, ports, airports, transit, and state police traffic control. It also provides state funding for the parish transportation program. Its major state revenue sources are taxes on gasoline, motor fuels, special fuels, and motor vehicle licenses.

The Transportation Trust Fund borrowed \$160 million from the Transportation Infrastructure Model for Economic Development (TIME) Account. As a result, the trust fund had a \$39 million deficit at the close of fiscal year 1991.

As part of our assessment of the Transportation Trust Fund, we determined:

- ♦ why the deficit occurred,
- ♦ the impact of the deficit, and
- ♦ what could be done to correct any identified problems.

Trust Fund Deficit

The Transportation Trust Fund borrowed \$160 million from the TIME Account to help fund its first two years of operations. As a result, the state's General Purpose Financial Statements included trust fund deficits for fiscal years 1990 and 1991.

The \$160 million were to have been used for projects authorized in the TIME Act (LSA-R.S. 47:820.1-820.6). Since the money was not immediately needed to finance those projects, the TIME Act authorized a "start-up" loan to the trust fund.

None of the loan has been repaid, and there is no formal plan for repayment. One part of the TIME Act allows the trust fund to repay the TIME Account 5½ years after the account and all statutory authorization for the account cease to exist.

Furthermore, trust fund revenues have consistently fallen short of appropriations so revenues have been insufficient to fund annual appropriations and repay the loan. If the loan is not repaid, it is unlikely there will be enough money in the TIME Account to fund all statutorily-authorized projects. (pages 7-11)

Matter for Legislative Consideration

The legislature may wish to consider one of several options to ensure that the \$160 million interfund loan from the Transportation Infrastructure Model for Economic Development (TIME) Account is resolved:

1. Amend the TIME Act (LSA-R.S. 47:820.2 C) to make the required date of the loan repayment (June 30, 2010) agree with the date the TIME Account ceases to exist (December 31, 2004); direct the Department of Transportation and Development to establish a schedule to repay the loan by December 31, 2004; and, beginning in fiscal year 1994, specify approximately \$14 million of the department's annual appropriation to repay the loan.
2. Amend the TIME Act (LSA-R.S. 47:820.4) to allow the TIME Account to remain in existence until June 30, 2010, so the \$160 million can be repaid over a longer period of time; direct the Department of Transportation and Development to establish a schedule to repay the loan by June 30, 2010; and, beginning in fiscal year 1994, specify approximately \$9.5 million of the department's annual appropriation to repay the loan.
3. Forgive the \$160 million debt; cancel selected TIME Account projects that would have been funded by the \$160 million; and reauthorize the projects with other financing.

4. **Appropriate additional State General Funds to the Transportation Trust Fund and require that those funds be used to repay the \$160 million interfund loan from the TIME Account. (pages 10-11)**

Summary of Agency Response

The Department of Transportation and Development responded that it did not have a formal plan to repay the loan because a plan was not required to make the loan. Department officials also said that if trust fund money were to be set aside to repay the loan, an additional burden would be placed on the trust fund whereas the TIME Account would have a surplus of cash.

Revenues Have Been Insufficient to Fund All Authorized Projects

Trust fund revenues have been insufficient to fund both operating expenses and all authorized projects. Appropriations are based on revenue forecasts. Actual revenues have consistently fallen short of the forecasts. Also, when the effect of inflation is considered, revenue collected from gasoline, motor fuels, and special fuels taxes decreased by three percent between 1985 and 1991--even though there was a four-cent tax increase in 1990. (pages 13-19)

Recommendation Number 1

The Revenue Estimating Conference should direct its staff to re-evaluate assumptions used in estimating fuel and motor vehicle license taxes so that the resulting forecasts more closely coincide with actual revenues. (page 16)

Summary of Agency Response

The Department of Treasury responded that the practice of budgeting more in expenditures than actual revenues has created a fund balance deficit which the legislature could address by reducing the appropriate prior-year's capital outlay appropriations.

**Aviation Tax
Revenues Not
Promptly
Allocated**

The appropriation of funds to airports is based upon estimates of aviation tax revenues. However, appropriations are not contingent upon the deposit of revenues into the trust fund. Because the Department of Revenue and Taxation did not promptly estimate tax collections and allocate revenues to the Transportation Trust Fund, the trust fund lost the use of those revenues during the first seven months of fiscal year 1992. (pages 20-22)

Recommendation Number 2

The Secretary of the Department of Revenue and Taxation should require his staff to complete annual estimates of taxes collected on aviation fuels in a timely manner so that this revenue can be promptly deposited into the trust fund each year. (page 21)

Summary of Agency Response

The Department of Revenue and Taxation concurred with the recommendation by stating that future allocations would be determined before each fiscal year begins and that transfers to the trust fund would be made each month.

**Insufficient
Revenues
Available**

Each fiscal year, the Department of Transportation and Development lacks sufficient funding during its first three months of operation. Tax revenue on gasoline, motor fuels, and special fuels has not been promptly available for expenditure because of both avoidable and unavoidable delays in tax collection, processing, and allocation.

As a result of the delays in depositing and allocating revenues to the trust fund, the trust fund lost over \$865,000 in interest income for four months examined in fiscal year 1991. The Department of Transportation and Development also had to borrow \$57.7 million in fiscal year 1992 to help fund its first three months of operations. This money was borrowed from funding reserved for prior-year's capital outlay projects. As of March 1992, only a portion of this amount had been repaid. (pages 23-33)

Matter for Legislative Consideration

The legislature may wish to address the issue of "seed money," which provides temporary operating revenue for programs funded by dedicated taxes. The legislature may wish to consider such options as:

- ♦ directing the Department of Treasury, the Division of Administration, and other relevant agencies to develop a formal plan for addressing the issue of "seed money" and to submit the plan for legislative review and approval;
- ♦ specifically addressing this type of funding in the state's annual operations budget by designating the manner in which affected agencies and programs should be funded during the first few months of each fiscal year; and/or
- ♦ requiring that all interfund loans be accompanied with a loan repayment plan before the loans are executed. (page 26)

Summary of Agency Responses

The Department of Transportation and Development responded that it had requested "seed money" from the State General Fund. Department officials said, however, both the Division of Administration and the Department of Treasury advised them that there were no State General Fund dollars available for that purpose. Therefore, department officials said they had to accept the Division of Administration's and Department of Treasury's decision to borrow funds from the prior-year's capital outlay reserve account.

The Department of Treasury responded that a 1991 amendment to the general appropriations bill required that trust fund revenues be allocated between the general appropriations and capital outlay bills based upon the percentage each appropriation was to the total of all appropriations. According to Treasury officials, "the revenues allocated in this manner have not provided sufficient cash to meet the current needs of the appropriations contained in the general appropriations bill and provide extra cash to repay the temporary 'seed'. . . ."

The Division of Administration also commented on the 1991 amendment. The division said that the allocation of revenues artificially inflated the cash balances in the trust fund's Capital Outlay Account and artificially deflated the cash balances available for operating appropriations. Thus, a larger intrafund seed was required. Division officials stated that "based on current structure and revenue streams, this situation will occur in future fiscal periods."

Recommendation Number 3

The Department of Revenue and Taxation should institute controls to ensure that tax payments are deposited within 24 hours of their receipt. (page 29)

Summary of Agency Response

The Department of Revenue and Taxation did not concur with our recommendation. Department officials responded that tax receipts were deposited in accordance with the department's cash management policy.

Recommendation Number 4

The Department of Revenue and Taxation should estimate allocations of gasoline, motor fuels, and special fuels taxes and classify appropriate revenues to the Transportation Trust Fund as they are received. Estimated allocations should be adjusted to reflect actual collections the following month. (page 32)

Summary of Department of Revenue and Taxation's Response

The Department of Revenue and Taxation did not concur with our recommendation. Department officials responded that the procedure for transferring fuels taxes are detailed in the 1990 bond indenture for TIME Account projects. They asserted that the document is a "clear expression of the requirements for allocating the funds" and that they have complied with it.

Auditors' Comments

The Collection and Allocation Agreement, which is part of the 1990 bond indenture, states that the Department of Revenue and Taxation has "30 *or more*" (emphasis added) days to allocate revenues to the trust fund. While the department has complied with the agreement, its specifications do not limit the time allowed for the allocation process. The bond attorney has confirmed that using more effective and efficient allocation techniques, specifically the technique addressed in our recommendation, will not adversely impair the bond indenture.

Summary of Division of Administration's Response

The Division of Administration responded that, while our recommendation might be beneficial to the trust fund, it could possibly be detrimental to other dedicated funds.

Chapter One: Background and Overview

Study Initiation and Objectives

The Transportation Trust Fund has been the subject of considerable legislative interest since its creation in January 1990. During its first 18 months of operation, the trust fund had borrowed \$160 million from the Transportation Infrastructure Model for Economic Development (TIME) Account.

Although the authorizing legislation requires that the loan be repaid, there is no formal plan for repaying the loan. Furthermore, although the trust fund had enough money to honor all fiscal year 1991 obligations, that year's financial statements showed that it accrued a \$39 million deficit.

As part of our assessment of the Transportation Trust Fund, we determined:

- why the deficit occurred,
- the impact of the deficit, and
- what could be done to correct any identified problems.

This study was conducted in accordance with generally accepted government auditing standards for performance audits. Fieldwork began on November 18, 1991, and was completed March 20, 1992. An explanation of the study's scope and methodology is included as Appendix A.

Report Conclusions

Initial funding for the Transportation Trust Fund included money from a \$160 million loan from the TIME Account. Trust fund revenues have been insufficient to repay this loan. As a result, the trust fund had a \$39 million financial deficit at the end of fiscal year 1991. Trust fund revenues have consistently fallen short of estimates so appropriations have exceeded revenues. Thus, there have not been sufficient funds to finance operating expenses, fund authorized projects, and repay the \$160 million loan. There are no plans for repayment. The \$160 million is earmarked

for future projects to be funded by the TIME Account. If this money is not repaid, it may not be possible to complete all these authorized projects.

Finally, while construction and maintenance costs rise each year, tax revenue on gasoline, motor fuels, and special fuels (the primary funding source) do not. These relatively "flat" revenues, combined with cash flow problems, may result in cash deficits wherein contracted services cannot be promptly paid.

Overview of the Transportation Trust Fund

On October 7, 1989, the Louisiana Constitution was amended to create the Transportation Trust Fund. The trust fund was established on January 1, 1990. It was proposed as a way to ensure a stable and dedicated revenue source for road and bridge maintenance and construction, statewide flood control, ports, airports, transit, and state police traffic control. It also provides state funding for the parish transportation program.

The trust fund has several sources of funding: (1) state taxes on gasoline, motor, aviation, and special fuels; (2) revenues from state motor vehicle license taxes; (3) federal funds; and (4) the trust fund's interest earnings.

Federal highway funding is deposited directly into the Transportation Trust Fund. However, before most of the trust fund's interest earnings, state fuels taxes, and motor vehicle license taxes are allocated to the trust fund, they are deposited into the State Bond Security and Redemption Fund. Some of this revenue can be used to pay the debt service for bonds secured by the taxes. The remaining revenue is then deposited into the Transportation Trust Fund.

Article 7, Section 27 of the Louisiana Constitution (LSA-Const. Art. 7, Sect. 27) establishes parameters for the appropriation of trust fund money:

- ♦ Not less than one cent of the gasoline, motor fuels, and special fuels taxes deposited into the trust fund is to be appropriated to the parish transportation program. (The trust fund was allocated 12 cents of this 20-cent tax in fiscal year 1990, 14 cents in fiscal year 1991, and 16 cents beginning in fiscal year 1992.)

- ♦ Beginning in fiscal year 1992, the trust fund was to receive all the state tax estimated to have been collected and received on aviation fuels.
- ♦ The combined annual appropriation to ports, the parish transportation program, statewide flood control, and the Office of State Police's traffic control program cannot exceed 20 percent of the state-generated revenues in the trust fund.
- ♦ The Department of Transportation and Development is to receive the remainder of the funds.

In fiscal year 1991, the state treasurer, who administers the Transportation Trust Fund, allocated \$383,144,735 to:

- ♦ parish transportation program (\$40,000,000),
- ♦ Office of State Police's traffic control program (\$25,000,000),
- ♦ Department of Transportation and Development's operations budget (\$155,501,926), and
- ♦ Department of Transportation and Development's capital outlay budget (\$162,642,809).

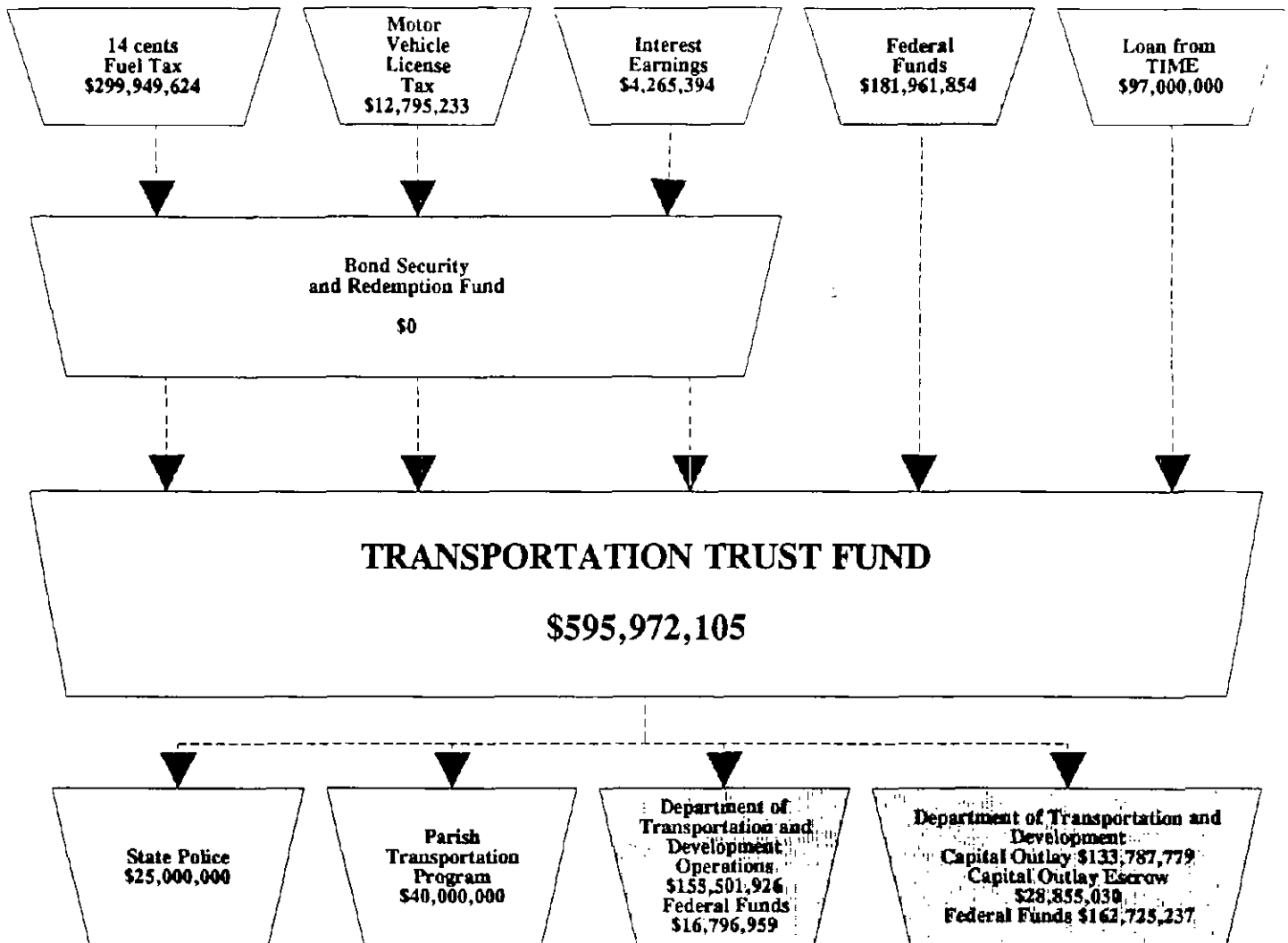
Exhibit I on the following page shows the trust fund's revenue sources, revenues from each source in fiscal year 1991, revenues ultimately allocated to the Transportation Trust Fund, and the final distribution of the trust fund's revenues.

Before the trust fund was created, transportation projects were funded by the State General Fund. During the economic downturn of the 1980s, highway and other transportation funds were often reduced. The state was unable to adequately maintain existing highways and could not always provide the state share of matching funds for federal highway programs.

The Transportation Trust Fund was created to ensure a dedicated source of revenue for the maintenance and construction of highways and other transportation-related activities. Over the last three years, the Department of Transportation and Development has been able to obtain increased federal funding. Officials of the Federal Highway Administration say this increase is due to improvements in the department's financial monitoring and management as well as to the more stable source of revenue provided by the trust fund.

Exhibit I

**Transportation Trust Fund's Funding Structure
For Fiscal Year Ended June 30, 1991**



Note 1: The shading indicates that only the Department of Transportation and Development receives federal funds deposited to the Transportation Trust Fund.

Note 2: All fuel and motor vehicle license taxes shown in this exhibit have been allocated to the trust fund. Some revenues from these taxes have been allocated elsewhere and, thus, are not shown in the exhibit.

Source: Special Purpose Financial Statement and Legislative Auditor's Independent Report for the year ended June 30, 1991, of the Transportation Trust Fund and Associated Accounts and Funds - Department of Treasury. The report was prepared on a cash basis (no receivables or payables included).

While creating the trust fund has enhanced the state's ability to ensure a stable source of funding, the state's last two General Purpose Financial Statements have shown trust fund deficits. Revenues have also consistently fallen short of appropriations.

Report Organization

We examined the Transportation Trust Fund to assess its financial viability, identify potential problems, and suggest possible remedies to avoid or minimize these problems. This report provides the results of our examination. The results are presented in the remaining three chapters:

- ♦ Chapter Two addresses the possible implications of the trust fund's financial deficit and its interfund borrowing of \$160 million from the TIME Account.
- ♦ Chapter Three considers the trust fund's revenues and appropriations.
- ♦ Chapter Four addresses cash flow issues resulting from the way trust fund revenues are collected, processed, and allocated.

Officials of the Department of Treasury, Division of Administration, Department of Revenue and Taxation, and Department of Transportation and Development were given an opportunity to provide written responses to the report. Excerpts of these responses have been inserted in the report directly following the relevant sections and are summarized in the report's executive summary. The agencies' response letters are reproduced in Appendix B.

Chapter Two: Trust Fund Deficit

Chapter Conclusions

The Transportation Trust Fund borrowed \$160 million to help fund its first two years of operations. None of this loan has been repaid, and there are no plans for repayment. Trust fund revenues have consistently fallen short of appropriations, so revenues have not been adequate to fund operating expenses, finance authorized projects, and repay the loan. If the loan is not repaid, there will be insufficient funding for some authorized projects.

Trust Fund Loan From TIME Account

When the Transportation Trust Fund was created in 1990, policy makers knew that revenues would be insufficient for all necessary funding. Additional funding was authorized by Act 16 of the 1989 First Extraordinary Session, as amended by Act 11 of the 1989 Second Extraordinary Session (TIME Act). The act authorized the trust fund to borrow up to \$160 million from the Transportation Infrastructure Model for Economic Development (TIME) Account. The TIME Act required that this interfund borrowing occur before January 1, 1994, and be repaid before June 30, 2010.

The TIME Account is funded by revenue from a special four-cent tax on gasoline, motor fuels, and special fuels (fuels tax) and proceeds from a 1990 bond issue. In fiscal year 1990, \$103 million from the 1990

bond proceeds and four-cent fuels tax revenue were authorized for the trust fund. In fiscal year 1991, \$57 million of TIME Account revenue were authorized for the trust fund. By the close of fiscal year 1991, the entire \$160 million had been borrowed.

... Monies in the TIME Account not needed for the payment of principal, interest, or premium ... or other charges related to the issuance of bonds ... may be appropriated and used for purposes not inconsistent with the Transportation Trust Fund. ... the total ... shall not exceed \$160 million. ...

LSA-R.S. 47:820.2 C

The Revenue Estimating Conference projected \$179.3 million in trust fund revenues for the last six months of fiscal year 1990. The trust fund was appropriated \$276 million that fiscal year. The appropriation exceeded estimated revenue by approximately \$96.7 million.

The Louisiana Constitution requires that the state have a balanced budget. Thus, appropriations cannot exceed estimated revenues. To comply with this constitutional provision, \$103 million was transferred from the TIME Account to the Transportation Trust Fund.

Fiscal year 1991 appropriations also exceeded that year's revenue projections. The Revenue Estimating Conference projected \$335.8 million in trust fund revenues during fiscal year 1991. Appropriations for that year (\$392.6 million) exceeded revenue estimates by approximately \$57 million. This shortfall was anticipated and was covered by \$57 million interfund borrowing from the TIME Account.

Thus, by the close of fiscal year 1991, the Transportation Trust Fund had borrowed the statutory limit of \$160 million--\$103 million in fiscal year 1990 and \$57 million in fiscal year 1991. This was to ensure that the fund's appropriations did not exceed estimated revenues for either fiscal year.

While necessary to balance the trust fund's budget, the interfund loan has resulted in two potential problems: (1) the state's General Purpose Financial Statements show that the Transportation Trust Fund has a deficit, and (2) there are no provisions for repaying the loan, thus, without additional tax commitments or debt issuance, some projects authorized by the TIME Act could go unfunded.

Trust Fund Deficits

The Transportation Trust Fund had balanced budgets for fiscal years 1990 and 1991. However, the budgets were balanced only because money borrowed from the TIME Account was used to supplement anticipated revenues. While this interfund borrowing helped balance the trust fund's budget, it also helped create year-end deficits in the trust fund.

General Purpose Financial Statements provide "snap shots" of the trust fund's financial condition at the close of each

fiscal year. These financial "snap shots" allow financial planners to assess whether an entity (1) is "living within its means," (2) has adequate revenue and reserves to deal with a financial down turn, and (3) is likely to incur future problems in meeting financial obligations.

On June 30, 1991, the trust fund's financial statements showed a \$39 million financial deficit. The money borrowed from the TIME Account was "income" and helped avoid a cash deficit in the budget. However, since it was borrowed money and eventually had to be repaid, it was considered a liability on the trust fund's financial statements. This created a situation wherein the trust fund's liabilities exceeded its assets.

No Loan Repayment Schedule

The Transportation Trust Fund has not repaid any of the funds borrowed from the TIME Account. The Department of Transportation and Development has not devised a formal plan to repay the loan. If this loan is not repaid, some projects authorized in the TIME Act may not be funded.

The interfund loan made it possible for the state to maximize the benefit of the TIME Account's bond proceeds and tax revenues. The TIME Act specifies projects to be funded by TIME Account revenues. However, since not all of the TIME Account's projects were to be initiated at the same time, some of these revenues were not immediately needed.

The bond indenture for the 1990 bond issue for TIME Account projects designated \$97.1 million of bond proceeds for trust fund projects. The bonds were secured by the special four-cent fuels tax. Tax revenues that were not needed to pay the bond issue's debt service were also available for loan to the trust fund.

Because the legislature knew all of the bond proceeds and tax revenues would not be immediately needed, it authorized the Transportation Trust Fund to borrow up to \$160 million in TIME Account funds to begin its operations. The funds were to be borrowed before January 1, 1994, and repaid by June 30, 2010.

While the act says the loan must be repaid by 2010, it also states that the portion of the law authorizing the TIME Account will cease to exist 15 years after the tax was imposed

(December 31, 2004) or when the cost of authorized projects has been paid--whichever is sooner. Thus, one portion of the act allows the trust fund to repay the TIME Account 5½ years after the account and all statutory authorization for the account ceases to exist.

Since the TIME Account will cease to exist at the close of 2004, provisions of the statute indicate that the interfund loan must be repaid by that time. (An attorney general's opinion on this issue is pending at this time.) At the time of our fieldwork, there was no formal plan for repaying the TIME Account.

. . . This part shall cease to be in effect 15 years from the date of the imposition of the tax described herein or at such time as all outstanding bonds or other indebtedness issued for the projects enumerated in the Part and payable from the proceeds of the tax levied by this Part have been paid in full as to principal and interest, whichever is sooner . . .

LSA-R.S. 47:820.4

Fuels tax revenues have not been adequate to fund all annual trust fund appropriations and authorized projects. In fiscal year 1990, revenue was insufficient to fund \$8,285,049 in capital outlay projects. In fiscal year 1991, \$8,821,671 in capital outlay projects were unfunded. Department of Transportation and Development officials say that, therefore, there has not been enough revenue to repay the loan.

The TIME Act specifies that the interfund loan be repaid. In order to repay the loan, a repayment schedule must be developed, implemented, and executed before December 31, 2004. If the loan is not repaid, it is unlikely there will be enough money in the TIME Account to fund all statutorily-authorized projects.

Matter for Legislative Consideration

The legislature may wish to consider one of several options to ensure that the \$160 million interfund loan from the Transportation Infrastructure Model for Economic Development (TIME) Account is resolved:

1. Amend the TIME Act (LSA-R.S. 47:820.2 C) to make the required date of the loan repayment

(June 30, 2010) agree with the date the TIME Account ceases to exist (December 31, 2004); direct the Department of Transportation and Development to establish a schedule to repay the loan by December 31, 2004; and, beginning in fiscal year 1994, specify approximately \$14 million of the department's annual appropriation to repay the loan.

2. Amend the TIME Act (LSA-R.S. 47:820.4) to allow the TIME Account to remain in existence until June 30, 2010, so the \$160 million can be repaid over a longer period of time; direct the Department of Transportation and Development to establish a schedule to repay the loan by June 30, 2010; and, beginning in fiscal year 1994, specify approximately \$9.5 million of the department's annual appropriation to repay the loan.
3. Forgive the \$160 million debt; cancel selected TIME Account projects that would have been funded by the \$160 million; and reauthorize the projects with other financing.
4. Appropriate additional State General Funds to the Transportation Trust Fund and require that those funds be used to repay the \$160 million interfund loan from the TIME Account.

Department of Transportation and Development's Response

DOTD does not have a formal plan to repay the loan because one was not required to make the loan. Also, if funds were to be set aside from the Transportation Trust Fund, (TTF) to repay the loan this would place an additional burden on the TTF and provide additional funding for the TIMED program, which at this time has a surplus of cash.

Chapter Three: Funding

Chapter Conclusions

The Transportation Trust Fund has not received sufficient revenues to fund all authorized projects. Appropriations are based on revenue forecasts. Actual revenues have consistently fallen short of the forecasts. Furthermore, when the effect of inflation is considered, revenue collected from gasoline, motor fuels, and special fuels taxes have increased very little since 1985.

The appropriation of funds to airports is based upon estimates of aviation fuel tax revenues. However, appropriations are not contingent upon the deposit of actual revenues into the trust fund. Because the Department of Revenue and Taxation did not promptly estimate tax collections and allocate revenues to the Transportation Trust Fund, the trust fund lost the use of those revenues during the first seven months of fiscal year 1992.

Revenues Consistently Fall Short of Forecasts

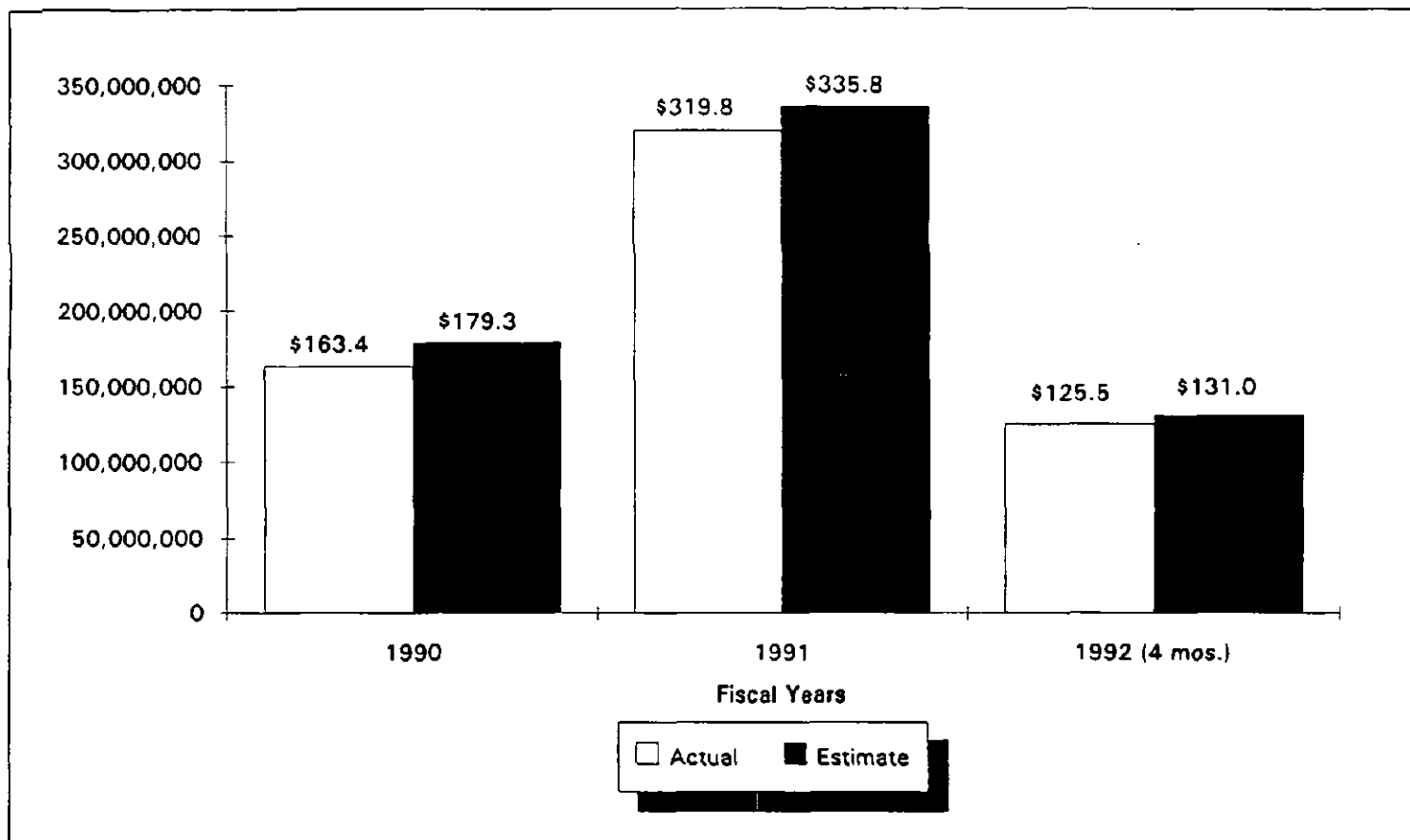
Revenues for the Transportation Trust Fund have consistently fallen short of revenue estimates. State trust fund revenues were overestimated by almost \$15.9 million (109% of actual revenues) in fiscal year 1990, \$16.0 million (105%) in fiscal year 1991, and \$5.5 million (104%) in the first four months of fiscal year 1992. Exhibit II on the following page illustrates variations between estimated and actual revenues.

Act 836 of 1989 (LSA-R.S. 39:54) requires that annual appropriations be based on official forecasts by the Revenue Estimating Conference. The Revenue Estimating Conference is to prepare and publish estimates of revenues available for appropriation each fiscal year.

In the October preceding each fiscal year, the Revenue Estimating Conference adopts a forecast of that year's anticipated revenues. The conference then reviews the estimates during the following January, March, and August and, if necessary, revises

Exhibit II

**Actual Revenue Collections Compared to the
Estimates of the Revenue Estimating Conference
For Fiscal Years 1990, 1991, and One-Third of 1992
(In Millions)**



Sources: Estimates - Legislative Auditor's staff analysis of the Revenue Estimating Conference official forecasts for Transportation Trust Fund state tax revenues. The August estimate was used in this analysis. However, our analysis of the lowest estimate for each fiscal year revealed that estimate also exceeded actual collections.

Actual collections for fiscal years 1990 and 1991 - Legislative Auditor's Financial and Compliance Division staff work papers of audited collections on an accrual basis (receivables included).

Actual collections for the first third of fiscal year 1992 - the Department of Treasury's Statement of Receipts and Disbursements in FACS as of December 31, 1991. This statement is on a cash basis and is unaudited. This statement represents four months of collections, or one-third of the year.

them. Appropriations are generally based upon the August estimate. The conference continues to review and, if necessary, adjust the estimates throughout the fiscal year.

The Division of Administration prepares a monthly status report of the state's budget and submits it to the Joint Legislative Committee on the Budget. If one of these reports shows a deficit in one or more funds, LSA-R.S. 39:75 authorizes the Joint Legislative Committee on the Budget to take official action by approving that report and notifying the governor of the budget deficit.

The governor then has 30 days from the determination of the projected budget deficit to reduce appropriations. Gubernatorial reductions for each budget unit cannot exceed 10 percent of each fund's appropriation for that budget unit.

If the governor cannot or will not reduce appropriations or if more extensive reductions are required to balance the budget, the governor must refer the budget to the legislature. If the legislature is not in session, the governor must call a special legislative session to address the projected deficit.

On March 18, 1992, the governor responded to notification from the Joint Legislative Committee on the Budget by issuing Executive Order 92-20 to reduce the Transportation Trust Fund's appropriation by \$11.7 million. The Revenue Estimating Conference's January 22, 1992, official forecast had shown that trust fund appropriations exceeded estimated revenues by that amount.

During fiscal years 1990, 1991, and 1992, the Department of Transportation and Development also dealt with anticipated deficits internally. Department officials monitored trust fund revenues. When department officials determined that the revenues had fallen below expected amounts, they transferred a portion of the amounts appropriated into a departmental account categorized as "unavailable to spend."

In fiscal year 1990, almost \$8.3 million of the department's appropriation was allocated to "unavailable to spend." In fiscal year 1991, the department classified \$8.8 million as "unavailable to spend." This reduced funding for ports and statewide flood control projects. By segregating a portion of the appropriations into an "unavailable to spend" category, the Department of Transportation and Development avoided contracting for projects when revenues were insufficient to fund them. Thus, this practice is a good expenditure control.

The Department of Transportation and Development has used good internal controls to avoid obligating more funds than it receives from the trust fund. The Joint Legislative Committee on the Budget and the governor took necessary action to reduce the trust fund's appropriations to more closely reflect actual revenue collection. However, actual revenues have consistently fallen short of the trust fund's revenue estimates and appropriations.

Recommendation Number 1

The Revenue Estimating Conference should direct its staff to re-evaluate assumptions used in estimating gasoline, motor fuels, special fuels, and motor vehicle license taxes so that the resulting forecasts more closely coincide with actual revenues.

Department of Treasury's Response

... the practice of budgeting or authorizing more in expenditures than actual revenues [is] a situation which has occurred for the past two fiscal years. The budget problem has created a fund balance deficit which could easily be addressed by the legislature by reducing the appropriate prior year's capital outlay appropriations.

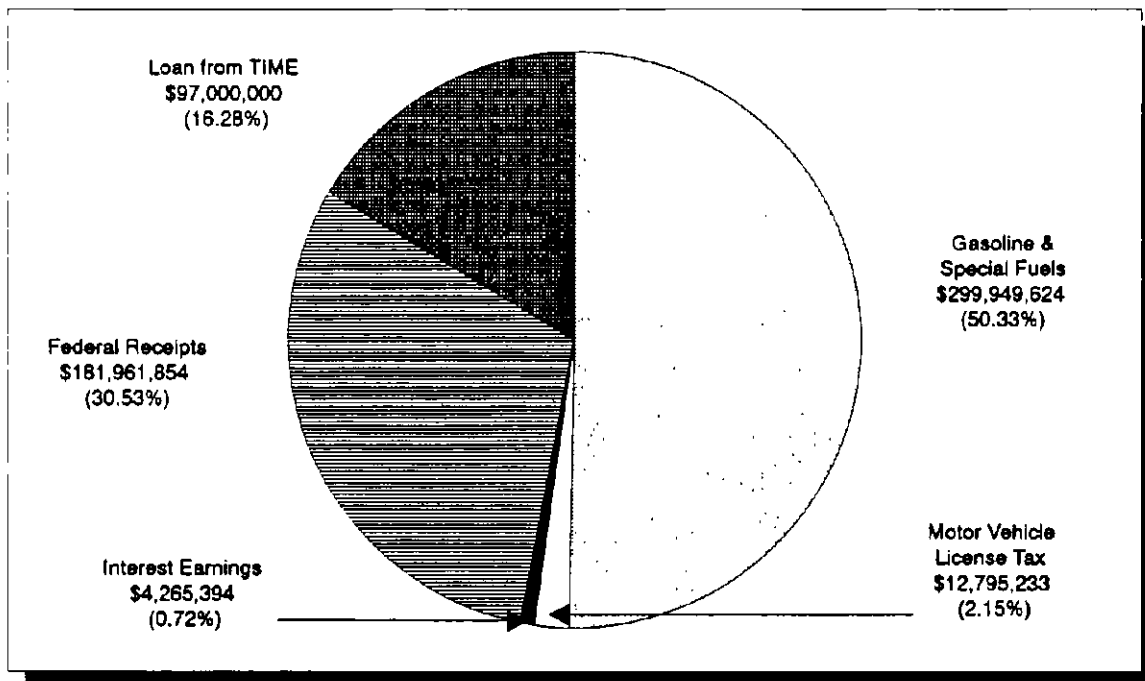
Revenues May Not Keep Pace With Inflation

Although construction and operating costs have increased with inflation, revenues from fuels taxes have not. The "buying power" of these tax revenues has decreased since 1985.

The Transportation Trust Fund has been financed through several sources:

- state gasoline, motor fuels, special fuels, and motor vehicle license taxes that are not needed for debt service on bonds which are secured by the taxes;
- federal funds; and
- the trust fund's interest earnings.

Exhibit III on the following page depicts the fiscal year 1991 amount and percentage of funding from each source.

Exhibit III**Sources of Funding for the Transportation Trust Fund
For Fiscal Year Ended June 30, 1991**

Source: Special Purpose Financial Statement and Legislative Auditor's Independent Report for the year ended June 30, 1991, of the Transportation Trust Fund and Associated Accounts and Funds--Department of Treasury.

Note: This report was prepared on the cash basis (no receivables or payables included).

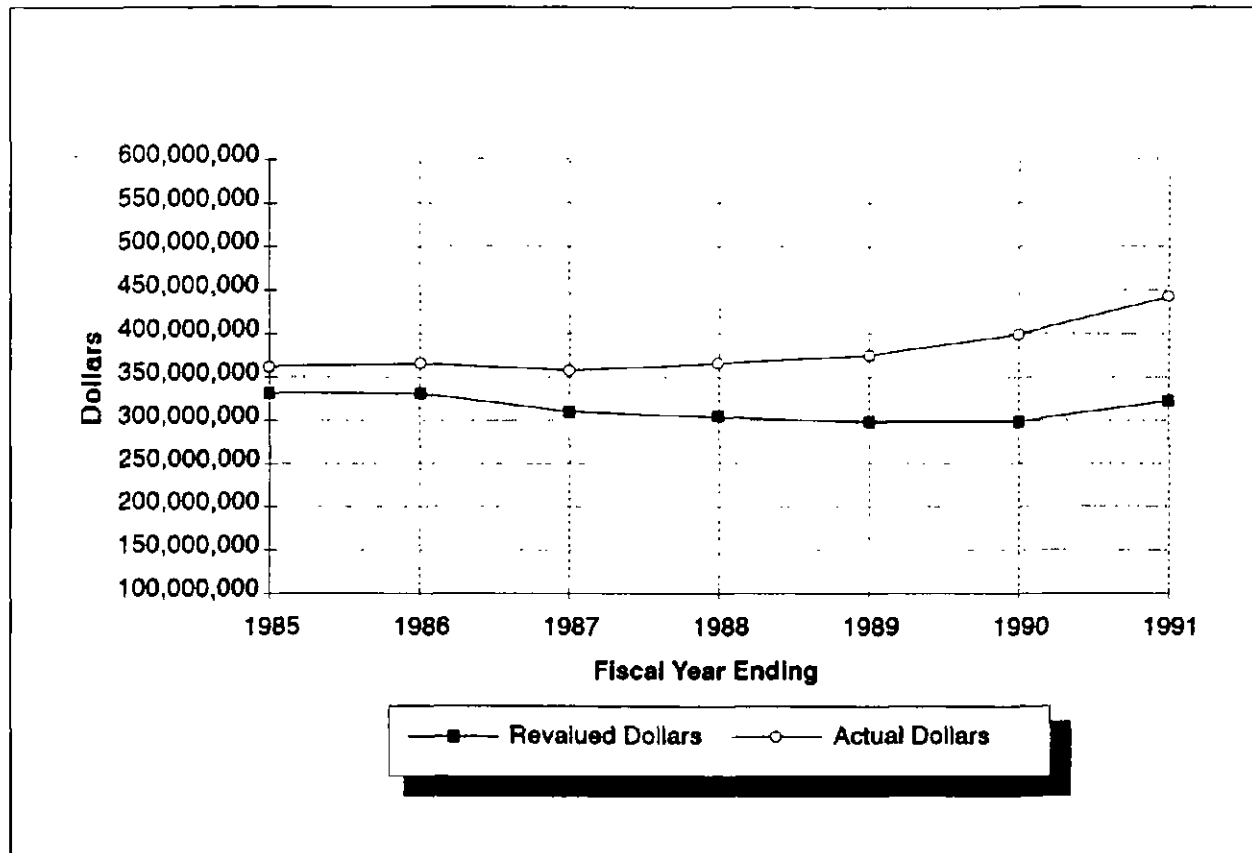
In fiscal year 1991, gasoline, motor fuels, and special fuel taxes provided approximately 72 percent of the trust fund's state revenues and 50 percent of the trust fund's total revenues. They are volume-based taxes. That is, the law specifies that a flat amount of tax is levied for each gallon of fuel sold. This amount is 20 cents a gallon. Four cents of this tax is allocated to the TIME Account. The remaining 16 cents helps fund the Transportation Trust Fund.

Because this is a volume-based tax, the amount of tax collected does not rise with the price of fuel as it would if it were a "percentage-based" tax. Twenty cents is collected for each gallon sold whether fuel sells for one dollar a gallon or three dollars a gallon.

If the tax were a percentage-based tax, revenues would increase with inflation. Revenues from the volume-based tax are unaffected by inflation. Under a percentage-based tax method, a 20-cent tax on a gallon of fuel would translate into a 20 percent tax. If the cost of fuel were to rise to \$3, the amount of tax would increase to 60 cents (20% of \$3). Thus, the value of the tax collected would increase with the cost (value) of fuel.

Tax revenues from gasoline, motor fuels, and special fuels almost doubled in fiscal year 1985 when the tax rate rose from 8 to 16 cents a gallon. Between fiscal years 1985 and 1989, the dollar value of tax collections fluctuated only slightly. In the middle of fiscal year 1990, the four-cent special tax was added to the 16-cent tax rate. At that time, the dollar amount of revenue from gasoline, motor fuels, and special fuels taxes increased. The rise was due to the tax increase.

When adjusted for inflation, revenue from gasoline, motor fuels, and special fuels has decreased since 1985. On the graph shown on Exhibit IV on the following page, the light line shows how much revenue these taxes generated between 1985 and 1991. The dark line shows the value of these tax revenues when they are adjusted for inflation. The graph shows that although the dollar value of revenues increased between 1985 and 1991, when the impact of inflation was taken into account, the value (or "buying power") of the revenues decreased three percent.

Exhibit IV**Prior Fiscal Years' Fuels Tax Collections Revalued to 1982 Dollars**

Source: Legislative Auditor's analysis of the effect of inflation on fuels tax collections.

Note: Using the Consumer Price Index for each year examined, the actual fuels tax collections were adjusted for inflation and revalued to 1982 dollars. The dark line shows the "purchasing power" of the actual fuels tax collections, while the light line shows the actual fuels taxes collected.

Aviation Fuel Tax Revenue Was Not Promptly Determined

Article 7, Section 27(B) of the Louisiana Constitution requires that annual appropriations for airports be equal to estimated revenue from aviation

fuel taxes. The Revenue Estimating Conference estimated that \$8.8 million in aviation fuel taxes would be collected during fiscal year 1992. The attorney general issued Opinion 90-22 on June 26, 1990. In this opinion, the attorney general said (1) the Louisiana Constitution requires that funds appropriated for airports be equal to estimated

revenues, and (2) these funds should be appropriated even if no aviation tax revenues have been deposited into the trust fund.

... the annual appropriation for airports shall be a sum equal to, but not greater than, the annual estimated revenue to be derived from the state taxes to be collected and received on aviation fuel . . .

*Article 7, Section 27(B)
Louisiana Constitution*

The opinion also noted that the only state tax on aviation fuels is a sales tax on jet fuels. The attorney general also opined that, beginning July 1, 1991, revenues from this tax were to be deposited into the Transportation Trust Fund.

No tax revenues on aviation fuels were deposited into the Transportation Trust Fund until February 18, 1992--seven months after the July 1 date. Department of Revenue and Taxation officials say that they had difficulty in obtaining information on the amount of tax collected on jet fuels. The form for remitting sales tax returns does not segregate aviation fuel tax revenues from other sales tax revenues.

Department of Revenue and Taxation officials began their efforts to estimate fiscal year 1992 aviation fuel tax revenues in September 1991. On September 10, 1991, they surveyed airport managers to determine how much jet fuel was purchased at their facilities. On September 13, 1991, department officials also surveyed aviation fuel dealers to determine how much jet fuel they sold. Department officials hoped to compare this information to ascertain a reliable estimate of actual tax revenues collected. This was three months after the attorney general said the revenues were to have been deposited into the trust fund.

Revenue officials say that some airport managers and fuel dealers declined to provide the necessary information. Therefore, Department of Revenue and Taxation personnel used incomplete data to develop estimates of actual tax collected.

On February 18, 1992, the Department of Revenue and Taxation reclassified \$3,075,658 of the State General Fund's general sales tax account to the Transportation Trust Fund's aviation fuel account. This was seven-twelfths of the estimated revenue collected during the prior calendar year (calendar year 1990) and represented estimated collections for the first seven months of fiscal year 1992.

Department of Revenue and Taxation officials say that the remaining five months' revenue (\$2,196,899) will be reclassified in five equal increments during the last five months of fiscal year 1992. Thus, the department has estimated that approximately \$5,272,557 will be collected for jet fuel taxes during fiscal year 1992.

The appropriation of funds to airports is based upon estimates of aviation tax revenues. However, appropriations are not contingent upon the deposit of actual revenues into the trust fund. Because the Department of Revenue and Taxation did not promptly estimate tax collections and allocate revenues to the Transportation Trust Fund, the trust fund lost the use of those revenues during the first seven months of fiscal year 1992.

Recommendation Number 2

The Secretary of the Department of Revenue and Taxation should require that his staff complete annual estimates of taxes collected on aviation fuels in a timely manner so that this revenue can be promptly deposited into the trust fund each year.

Department of Revenue and Taxation's Response

The delay in making the initial allocation of aviation fuel taxes resulted from the difficulty the department had in obtaining information from some of the airport managers and motor fuel dealers. After spending considerable time and effort in developing a reliable estimate, an allocation level was determined.

Department officials initially were not aware that the time required to establish the allocation would impact the availability of the funds. Further, since most July sales tax returns were not filed until late August, the earliest date that funds were available to the Trust

Fund was September 1991. Future allocations will be determined before each fiscal year begins and transfers to the Transportation Trust Fund will be made on a monthly basis.

Chapter Four: Cash Flow

Chapter Conclusions

Each fiscal year, the Department of Transportation and Development has insufficient funding during its first three months of operation. Tax revenue on gasoline, motor fuels, and special fuels has not been promptly available for expenditure because of both unavoidable and avoidable delays in tax collection, processing, and allocation.

Insufficient Revenues Available to Fund Operations at Start of Fiscal Year

Each fiscal year, the Department of Transportation and Development has insufficient funding during its first three months of operation. Almost 70 percent of the Department of Transportation and Development's funding is from the Transportation Trust Fund. Most of the trust fund's state revenue is from gasoline, motor fuels, and special fuels taxes.

In fiscal year 1991, an average of 98 days elapsed between the first day of the fiscal year and the date trust fund revenues were available for expenditure. Vendors are not required to remit taxes collected during the month of July (the first month of each fiscal year) until August 20, 51 days after the fiscal year begins. An average of another 34 days elapse between the time the Department of Revenue and Taxation receives the tax money and the time it is transferred to the trust fund. During the four months reviewed, an average of an additional 13 days elapsed before the treasurer made these funds available for expenditure.

During this period, the Department of Transportation and Development, which is primarily funded by those tax revenues, has insufficient money to fund routine operations. Tax revenue from May and June is received and can be spent during this three-month period. However, since this money is the prior-year's tax revenues, it must be used for the prior-year's expenditures. Thus, these revenues cannot be used to fund current operating expenses, unless they are not needed to fund prior-year's expenses.

In fiscal year 1991, \$57 million were allocated from the TIME Account to help fund operations for the first three months of that fiscal year. This was part of the \$160 million of interfund borrowing from the TIME Account. In fiscal year 1992, funds were borrowed from the prior-year's capital outlay reserve account.

The capital outlay reserve account was established in fiscal year 1991. During this fiscal year, the treasurer first allocated monthly trust fund revenues to the parish transportation program, State Police's traffic control program, and the Department of Transportation and Development's operating budget. Revenues not needed for these purposes were then allocated to the capital outlay reserve account to fund highway construction and maintenance and other capital outlay projects.

On June 13, 1991, the state treasurer requested a meeting of representatives of the Department of Treasury, Division of Administration, Department of Transportation and Development, Department of Revenue and Taxation, and Department of Public Safety (Office of State Police) to discuss issues associated with the delay in funding for fiscal year 1992.

The meeting resulted in a decision to transfer \$57.7 million from the Transportation Trust Fund's prior-year's capital outlay reserve account to operations. This money was to provide temporary funding for the Department of Transportation and Development, Office of State Police's traffic control program, and the parish transportation program.

As of March 20, 1992, \$10,684,000 (19%) of this capital outlay loan had been repaid. In December 1991, the Department of Treasury began deducting funds from the trust fund's allocations to the Office of State Police and parish transportation program to repay their portions of the capital outlay loan. The Department of Treasury planned a repayment schedule wherein that office would deduct the equivalent of seven equal payments during the last seven months of the fiscal year to repay the borrowed amount.

No funds were deducted from allocations to the Department of Transportation and Development. However, in March 1992, personnel of the Department of Transportation and Development ascertained that they lacked funding to honor contractual obligations for its prior-year's capital outlay program. On March 9, 1992, they transferred \$5,460,000 from that department's operations to its capital outlay account so that the

contract payments could be made. This transfer constitutes a partial repayment of the initial capital outlay loan. Table A below depicts the amount borrowed at the beginning of fiscal year 1992 by agency and the amount of the loan repaid as of March 20, 1992.

Using capital outlay funds to finance operating expenses can result in a shortage of funds for authorized capital projects--particularly when borrowed money is not promptly repaid. Appropriations to the Department of Transportation and Development have consistently exceeded actual revenues. Thus, unless the department decreases its operating expenditures or delays capital outlay projects, funding to repay this "seed money" is not readily available.

| Table A Fiscal Year 1992 Funds Transferred From the Trust Fund's Capital Outlay Reserve Account to Trust Fund Agencies' Operating Budgets | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|-----------------------|--------------|
| Activity | DOTD | State Police | Parish Transportation | Total |
| Money Advanced from 6/91 to 9/91 | \$48,560,000 | \$3,428,000 | \$5,714,000 | \$57,702,000 |
| Money Repaid from 12/91 through 3/92 | 5,460,000 | 1,958,857 | 3,265,143 | 10,684,000 |
| Unpaid Balance as of 3/20/92 | \$43,100,000 | \$1,469,143 | \$2,448,857 | \$47,018,000 |
| Source: Legislative Auditor's staff analysis of the Department of Treasury's special revenue vouchers. | | | | |

Potential problems associated with this borrowing have been compounded because the borrowing has been used as a temporary, rather than long-term, remedy. As of the close of our fieldwork, officials in the Department of Transportation and Development did not know how that department's first few months of fiscal year 1993 operations would be funded. It is also not clear whether the borrowing from the capital outlay account

is permissible under current law. We have requested an attorney general's opinion on the propriety of the borrowing. The opinion is pending.

Matter for Legislative Consideration

The legislature may wish to address the issue of "seed money" which provides temporary operating revenue for programs funded by dedicated taxes. The legislature may wish to consider such options as:

- ♦ directing the Department of Treasury, the Division of Administration, and other relevant agencies to develop a formal plan for addressing the issue of "seed money" and to submit the plan for legislative review and approval;
- ♦ specifically addressing this type of funding in the state's annual operations budget by designating the manner in which affected agencies and programs should be funded during the first few months of each fiscal year; and/or
- ♦ requiring that all interfund loans be accompanied with a loan repayment plan before the loans are executed.

Department of Transportation and Development's Response

DOTD had made a verbal request to the Division of Administration for a State General Fund seed to cover start up operating expenses for FY 92. We were advised by both the Division of Administration and the State Treasury that there was no General Fund dollars available for a seed. Therefore, DOTD had no choice but to accept their decision of borrowing the funds from the prior year's capital outlay reserve account.

Department of Treasury's Response

While we agree with the synopsis contained in this report regarding the recurring cash flow problem, we would like to expound on the issue of the "seed repayment". In July and August, DOTD needs cash to pay operating expenses such as salaries, operating services, supplies etc. However cash is not available until September. During the 1991 regular session of the legislature, the preamble of the general appropriations bill was amended. This amendment changed the priority and manner in which trust fund revenues are allocated between appropriations that are contained in the general appropriations and capital outlay bills. In the prior two fiscal years, '90 and '91, the appropriations in the general appropriations bill were given priority in the allocation of revenues. In other words, the cash needs of the appropriations contained in the appropriations bill were met before revenues were allocated to the appropriations contained in the capital outlay bill. The above referenced amendment now requires that the revenues are to be allocated between both bills based on the percentage each appropriation is to the total of all appropriations. As a result, the revenues allocated in this manner have not provided sufficient cash to meet the current needs of the appropriations contained in the general appropriations bill and provide extra cash to repay the temporary "seed" in the amount of \$57.7 million made at the beginning of the fiscal year.

Division of Administration's Response

In Fiscal year 1991-92 due to the receipt flow of funds and the exhaustion of the \$160 million TIME Account Advance an intra fund borrowing was required to cover the operating expenses of the Dept. of Transportation and Development, State Police, and Parish Transportation appropriations. This level of intra-fund borrowing during prior years could have been for one months activity with a full payback during the second and third months of the fiscal period.

However, during the 1991 Regular Legislative Session, legislation was passed that removed the priority distribution previously given to units contained in the General Appropriations Act, and replaced it with an equal priority distribution of revenues flowing to the Transportation Trust Fund. As a consequence appropriations contained in the fiscal year 1991-92 General Appropriations Act and Capital Outlay Act, unlike prior fiscal periods, were placed on equal priority for receiving revenues flowing into the Transportation Trust Fund.

This was done even though the facts clearly indicated that cash funding for Capital Outlay projects was not needed on the same basis as that of operations. The result has been that the allocation of revenues has artificially inflated the cash balances in the Capital

Outlay Account within TTF, while artificially deflating the cash balances available for the operating appropriations.

This has required a larger intra fund seed to be made, which due to the allocation process and the revenue inflow pattern which will occur after June 30, can only be paid after June 30, 1992. Based on current structure and revenue streams this situation will occur in future fiscal periods.

**Trust Fund
Loses
Interest
Income**

The process for receiving and allocating revenues from gasoline, motor fuels, and special fuels taxes causes delays in the time required to allocate funds to the Transportation Trust Fund and to make funds available for expenditure. Taxes collected by vendors in one month are not required to be remitted to the Department of Revenue and Taxation until the twentieth of the following month. This allows vendors time to compute taxes owed to the state.

Once the Department of Revenue and Taxation receives the taxes and accompanying tax forms, cash remissions are separated from the tax forms and deposited into the Escrow Fund; interest earned by money in that fund is accrued to the State General Fund. Department of Revenue and Taxation's staff then have 30 or more days to calculate the amount of tax revenue received, identify and adjust taxpayer errors, and determine the amount to be refunded or collected before allocating appropriate amounts to the Transportation Trust Fund. It then takes another 13 days for the Department of Treasury to complete the allocation process and make the funds available for expenditure.

We traced receipts from gasoline, motor fuels, and special fuels taxes remitted to the Department of Revenue and Taxation during selected months in fiscal year 1991. We examined September 1990, December 1990, March 1991, and June 1991 receipts.

An average of 47 days elapsed between the time the Department of Revenue and Taxation received these tax revenues and the date the revenues were available for expenditure. During the four months examined, the Transportation Trust Fund lost over \$865,000 in interest income due to delays in depositing and allocating revenues to the trust fund.

Table B shows interest lost during each month tested. Exhibit V on the following page shows the amount of time taken in each stage of tax processing and allocation.

| Table B Interest Income Lost to the Transportation Trust Fund Four Selected Months in Fiscal Year 1991 | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| Month Tested | Interest Lost to the State Due to Late Deposits | Interest Lost to the Trust Fund; Accrued to State General Fund | Total Interest Income Lost to Trust Fund |
| September 1990 | \$12,706 | \$252,279 | \$264,985 |
| December 1990 | 14,457 | 218,918 | 233,375 |
| March 1991 | 12,158 | 139,559 | 151,717 |
| June 1991 | 8,342 | 206,951 | 215,293 |
| Total | \$47,663 | \$817,707 | \$865,370 |
| Source: Legislative Auditor's staff analysis of information received from the Department of Revenue and Taxation; interest rates used in analysis obtained from the Department of Treasury. | | | |

Deposit of Tax Receipts

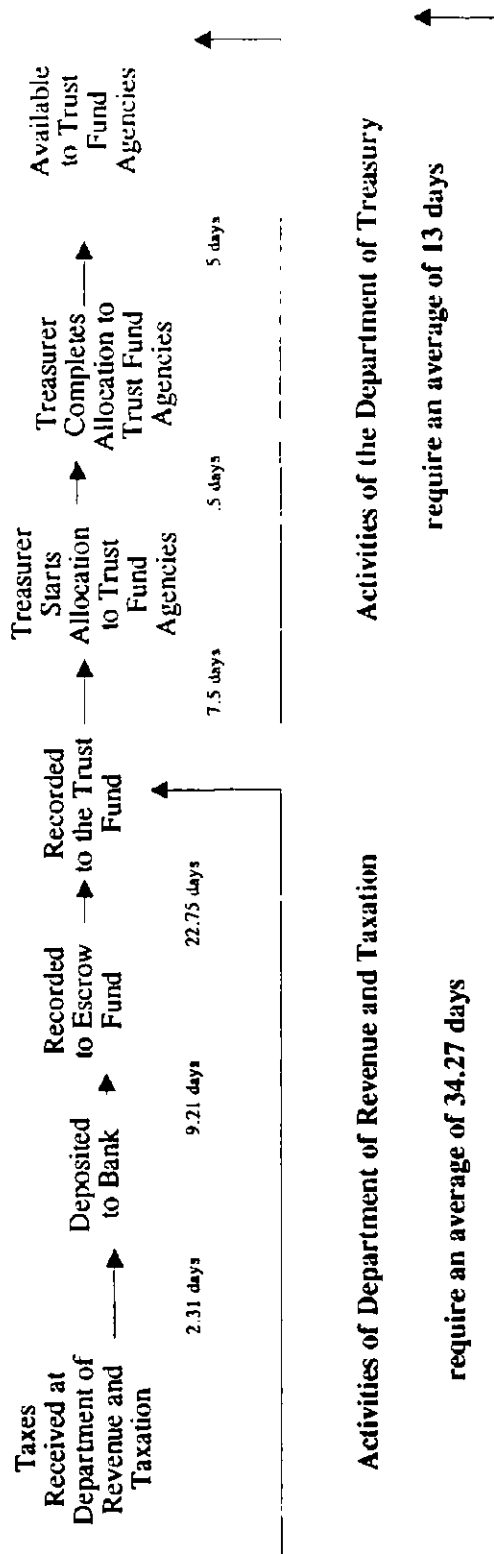
An average of 2.3 days elapsed between the day the Department of Revenue and Taxation received tax remissions and the day it deposited them. The state would have benefited from an additional \$47,663 in interest income had these receipts for the four months tested been deposited on the date they were received.

Recommendation Number 3

The Department of Revenue and Taxation should institute controls to ensure that tax payments are deposited within 24 hours of their receipt.

Exhibit V

Transportation Trust Fund

Average Time From Collection of Taxes to
Availability to Trust Fund Agencies

Source: Legislative Auditor's staff analysis of records from the Department of Revenue and Taxation, the Department of Treasury, and the Department of Transportation and Development for the months of September 1990, December 1990, March 1991, and June 1991.

Department of Revenue and Taxation's Response

Tax receipts are deposited in accordance with the department's cash management policy. This policy has been reviewed by the state's Cash Management Review Board. Priorities for large dollar amounts and other major state taxes have impacted the timeliness of the deposits of these funds. The department has proposed legislation to require taxpayers owing amounts in excess of \$20,000 to remit payments by electronic fund transfers.

Allocation of Receipts to Trust Fund

The process used for allocating tax receipts to the Transportation Trust Fund results in the trust fund losing interest income. Fuel tax revenues collected during the four test months earned approximately \$817,700 in interest income while temporarily classified as Escrow Funds.

Gasoline, motor fuels, and special fuels taxes are initially deposited into an "unclassified" account in the Escrow Fund. This is because not all these taxes are to be allocated to the trust fund. While in the Escrow Fund, interest income on the revenue accrues to the State General Fund.

Personnel in the Department of Revenue and Taxation review tax returns as they are received and make corrections and adjustments. The Department of Revenue and Taxation has 30 days or more to make these corrections, classify the tax revenue, and prepare documents transferring funds to the Transportation Trust Fund. The 30-day requirement is specified as part of an addendum to the bond indenture for the 1990 bond issue for TIME Account projects. The Department of Revenue and Taxation has complied with the provisions of the agreement.

Our review of four months' transactions revealed that classifications for those months were completed in an average of 34 days. The State General Fund earns interest on the revenue before it is transferred to the trust fund. However, the Louisiana Constitution specifies that the Transportation Trust Fund is to benefit from the tax revenue and the interest earnings.

Deposits into the trust fund are delayed because the Department of Revenue and Taxation does not allocate revenues on gasoline, motor fuels, and special fuels taxes until it completes

all computations and adjustments. Instead of completing all adjustments before allocating revenues to the trust fund, the Department of Revenue and Taxation could use prior months' allocations to estimate allocations in order to more promptly classify the funds. Department personnel could then complete actual computations and make adjustments the following month.

If the Department of Revenue and Taxation had estimated allocations as the gasoline, motor fuels, and special fuels taxes had been received and had prepared the transfer documents immediately, the trust fund could have earned an additional \$817,700 for the four months included in our review. If a similar amount of interest were earned the other eight months of the fiscal year as had been earned during the four test months, the Transportation Trust Fund would have benefited from an additional \$1.6 million.

Recommendation Number 4

The Department of Revenue and Taxation should estimate allocations of gasoline, motor fuels, and special fuels taxes and classify appropriate revenues to the Transportation Trust Fund as they are received. Estimated allocations should be adjusted to reflect actual collections the following month.

Department of Revenue and Taxation's Response

The required procedure for the timely transfer of the gasoline motor fuel and special fuel taxes are detailed in the bond indenture for the 1990 bond issue for TIME Account Projects. This document is a clear expression of the requirements for allocating the funds. The Department of Revenue and Taxation has complied with the provisions of this agreement.

Auditors' Comments

The Collection and Allocation Agreement, which is part of the 1990 bond indenture, states that the Department of Revenue and Taxation has "30 or more" (emphasis added) days to allocate revenues to the trust fund. While the department has complied with the agreement, its specifications do not limit the time allowed for the allocation process. The bond attorney has

confirmed that using more effective and efficient allocation techniques, specifically the technique addressed in our recommendation, will not adversely impair the bond indenture.

Division of Administration's Response

This recommendation is based on the premise that the TTF fund not be harmed, and your offices opinion that the intent of the Constitution in this regard is clear. Your office should be aware that although beneficial to the Trust fund implementation of these recommendations could possibly be detrimental to other dedicated funds.

Appendices

Appendix A: Scope and Methodology

This audit was conducted under the provisions of Title 24 of the *Louisiana Revised Statutes of 1950, As Amended*. All performance audits are conducted in accordance with generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Scope

Our study of the Transportation Trust Fund began on November 18, 1991, and ended March 20, 1992. This study covers the period January 1990 (the inception of the trust fund) to the end of our fieldwork.

The focus of this study was on the Transportation Trust Fund. We examined data pertaining to the Transportation Infrastructure Model for Economic Development (TIME) Account to the extent necessary to meet our objectives.

Our review included assessments of internal controls, reliability of computer-processed data, and compliance with laws and regulations to the extent necessary to achieve the audit objectives. The work of our financial and compliance auditors was used in making these assessments.

General Methodology

To gain a general understanding of the trust fund, we obtained and reviewed relative background data, such as applicable legislation, attorney general's opinions, budget data, news accounts, bond indenture for TIME Account bonds sold in May 1990 and the Bond Resolution's Collection and Allocation Agreement, and other sources.

We reviewed the trust fund's special purpose audit reports and associated work papers prepared by the Office of Legislative Auditor for the fiscal years 1990 and 1991. We also reviewed the work papers prepared during the audit of the state's General Purpose Financial Statements for the fiscal year 1991 to determine the origins of the deficit reported in those statements. We relied on the work of the financial auditors to the extent necessary to meet our objectives.

We reviewed studies and other reviews by the Senate Office of Fiscal Affairs and Policy Development; the Legislative Fiscal Office; the Public Affairs Research Council of Louisiana, Inc. (PAR); and the Office of Inspector General's October 30, 1990, report on the trust fund.

We met with officials from the Department of Treasury, Division of Administration, Department of Transportation and Development, Department of Revenue and Taxation, and

the Federal Highway Administration to obtain background information and identify problems with the trust fund.

Review of Process for Receiving and Allocating Tax Revenues

We reviewed procedures used by the Department of Revenue and Taxation for processing tax collections. We analyzed gasoline, motor fuels, and special fuels tax collections from the Department of Revenue and Taxation records for the months of September 1990, December 1990, March 1991, and June 1991. These receipts constituted 33 percent of gasoline receipts and 28 percent of special fuels receipts for the fiscal year 1991. We examined the process from the time the taxes were collected until they were available for expenditure. We calculated the average time from receipt of revenues by the Department of Revenue and Taxation until the treasurer makes the revenue available for expenditure. We confirmed the date of availability with the Department of Transportation and Development. We also calculated the amount of interest lost to the state and to the trust fund for these months. The prevailing interest rates for the months examined were obtained from the Department of Treasury. These rates were multiplied by undeposited tax collections, divided by 360 days, and then multiplied by the number of days outstanding.

Review of Revenue Estimating Conference Minutes and Official Forecasts

We reviewed the minutes of the Revenue Estimating Conference meetings from January 15, 1988, through January 22, 1992. We analyzed estimates prepared by the Revenue Estimating Conference, as shown in the minutes. We followed-up with the State Budget Office and the Senate Office of Fiscal Affairs and Policy Development to assure the proper estimates to use in our analyses. We performed comparisons of these estimates to actual revenues received and then to appropriations made for the fiscal years 1990, 1991, and 1992.

We discussed balanced budget requirements with the State Budget Office. We reviewed the study of interim procedures for adjusting the budget done by the Senate Office of Fiscal Affairs and Policy Development.

Devaluation of Revenue Collections

We obtained the latest Consumer Price Index Detailed Report (September 1991) published by the U.S. Department of Labor, Bureau of Labor Statistics and the gasoline, motor fuels, and special fuels tax collection history data from the Department of Revenue and Taxation, as published in the department's annual report. We revalued fuel tax collections for fiscal years 1984-85 through 1990-91 to 1982 dollars.

Appendix B

Agency Responses

**Department of
Treasury's
Responses**



TREASURER OF THE STATE OF LOUISIANA

MARY L. LANDRIEU
TREASURER

April 6, 1992

P O BOX 44154
BATON ROUGE 70804
(504) 342-0010

Ms. Cheryl A. Tucker-Smith, CPA
Auditor-in-Charge
Office of the Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804

Dear Cheryl:

Thank you for the opportunity to review and comment on your performance audit of the Transportation Trust Fund (TTF). As you know, our office has received two "unqualified" financial audits for the first two years of the Trust Fund's existence. We welcome the Legislature's initiative in requesting an audit of this type on such a major financial program. As you suggested, we have prepared a response for inclusion in your report which states specific points of concern as a result of our involvement in the accounting and reporting process.

On April 19, 1990, the State of Louisiana issued \$263,902,639.95 of Gasoline and Fuels Tax Revenue Bonds Series 1990 A. Our main objective in the administration of the Transportation Trust Fund has been to completely satisfy the requirements of the TTF Gasoline and Fuels Tax Collection and Allocation Agreement and Official Statement relative to this bond sale and to assist the state agencies involved in the administration of the Transportation Trust Fund.

Although several problems have been discussed in this report, we would like to emphasize two main problems which we feel warrants Legislative attention. The first problem is the practice of budgeting or authorizing more in expenditures than actual revenues, a situation which has occurred for the past two fiscal years and the other problem being the lack of cash to meet the monthly cash needs of TTF funded agencies.

The budget problem has created a fund balance deficit which could easily be addressed by the legislature by reducing the appropriate prior year's capital outlay appropriations.

While we agree with the synopsis contained in this report regarding the recurring cash flow problem, we would like to expound on the issue of the "seed repayment". In July and August, DOTD needs cash to pay operating expenses such as salaries, operating services, supplies etc. However cash is not available until

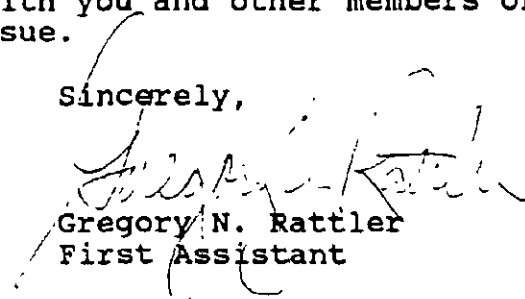
Ms. Cheryl A. Tucker-Smith, CPA
April 6, 1992
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September. During the 1991 regular session of the legislature, the preamble of the general appropriations bill was amended. This amendment changed the priority and manner in which trust fund revenues are allocated between appropriations that are contained in the general appropriations and capital outlay bills. In the prior two fiscal years, '90 and '91, the appropriations in the general appropriations bill were given priority in the allocation of revenues. In other words, the cash needs of the appropriations contained in the appropriations bill were met before revenues were allocated to the appropriations contained in the capital outlay bill. The above referenced amendment now requires that the revenues are to be allocated between both bills based on the percentage each appropriation is to the total of all appropriations. As a result, the revenues allocated in this manner have not provided sufficient cash to meet the current needs of the appropriations contained in the general appropriations bill and provide extra cash to repay the temporary "seed" in the amount of \$57.7 million made at the beginning of the fiscal year.

In summary, we will continue to work with the Governor, Legislature, and the TTF funded state agencies to establish procedures which meet our legal requirements and the cash needs of the agencies. Consistent with our commitment to comply with existing law and to provide an accurate and timely financial reporting of Trust Fund activity, we will continue to strive for unqualified financial audits.

It has been a pleasure to work with you and other members of the performance audit team on this issue.

Sincerely,



Gregory N. Rattler
First Assistant

GNR:gkh

**Division of
Administration's
Responses**



EDWIN W. EDWARDS
GOVERNOR

State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF THE COMMISSIONER

RAYMOND J. LABORDE
COMMISSIONER OF ADMINISTRATION

April 7, 1992

Dr. Daniel G. Kyle, Ph.D., CPA
Legislative Auditor
State of Louisiana
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Dr. Kyle:

Re: Revised Draft-Transportation Trust Fund Report

As requested, I have had my staff review the revisions made to the aforementioned report as the result of the exit conference held in your office on April 2, 1992. Based upon that review I can find no material misstatement of fact. However, I would offer the following suggested comments/revisions:

On page 22, after the first paragraph insert, "In Fiscal year 1991-92 due to the receipt flow of funds and the exhaustion of the \$160 million TIME Account Advance an intra fund borrowing was required to cover the operating expenses of the Dept. of Transportation and Development, State Police, and Parish Transportation appropriations. This level of intra-fund borrowing during prior years could have been for one months activity with a full payback during the second and third months of the fiscal period.

However, during the 1991 Regular Legislative Session, legislation was passed that removed the priority distribution previously given to units contained in the General Appropriations Act, and replaced it with an equal priority distribution of revenues flowing to the Transportation Trust Fund. As a consequence appropriations contained in the fiscal year 1991-92 General Appropriations Act and Capital Outlay Act, unlike prior fiscal periods, were placed on equal priority for receiving revenues flowing into the Transportation Trust Fund.

Dr. Daniel G. Kyle
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This was done even though the facts clearly indicated that cash funding for Capital Outlay projects was not needed on the same basis as that of operations. The result has been that the allocation of revenues has artificially inflated the cash balances in the Capital Outlay Account within TTF, while artificially deflating the cash balances available for the operating appropriations.

This has required a larger intra fund seed to be made, which due to the allocation process and the revenue inflow pattern which will occur after June 30, can only be paid after June 30, 1992. Based on current structure and revenue streams this situation will occur in future fiscal periods."

In addition, the report focuses on the estimation and allocations of revenues attributable to the Trust Fund and the benefits to be derived therein. This recommendation is based on the premise that the TTF fund not be harmed, and your offices opinion that the intent of the Constitution in this regard is clear. Your office should be aware that although beneficial to the Trust fund implementation of these recommendations could possibly be detrimental to other dedicated funds.

Again, I appreciate the opportunity to have been able review and offer my comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raymond J. Laborde".

Raymond J. Laborde
Commissioner of Administration

RJL/wjk

**Department of
Revenue and
Taxation's
Responses**



EDWIN W. EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF REVENUE AND TAXATION

April 6, 1992

RALPH SLAUGHTER, CPA
SECRETARY

Dr. Daniel G. Kyle, CPA
Legislative Auditor
Office of Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804

Dear Dr. Kyle:

On Thursday, April 2, 1992, a meeting was held with members of your staff to discuss the performance audit of the Transportation Trust Fund. In an effort to meet today's deadline, the following comments were prepared for the topics noted:

CHAPTER 3 - FUNDING

AVIATION FUEL TAX REVENUE WAS NOT PROMPTLY DETERMINED

The delay in making the initial allocation of aviation fuel taxes resulted from the difficulty the department had in obtaining information from some of the airport managers and motor fuel dealers. After spending considerable time and effort in developing a reliable estimate, an allocation level was determined.

Department officials initially were not aware that the time required to establish the allocation would impact the availability of the funds. Further, since most July sales tax returns were not filed until late August, the earliest date that funds were available to the Trust Fund was September 1991. Future allocations will be determined before each fiscal year begins and transfers to the Transportation Trust Fund will be made on a monthly basis.

CHAPTER 4 - CASH FLOW

**TRUST FUND LOSES INTEREST INCOME
DEPOSIT OF TAX RECEIPTS**

Tax receipts are deposited in accordance with the department's cash management policy. This policy has been reviewed by the state's Cash Management Review Board. Priorities for large dollar amounts and other major state taxes have impacted the timeliness of the deposits of these funds. The department has proposed legislation to require taxpayers owing amounts in excess of \$20,000 to remit payments by electronic fund transfers.

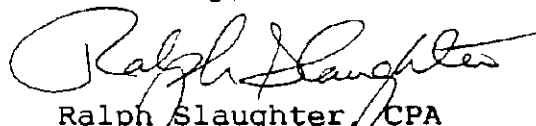
Mr. Daniel G. Kyle
Page 2
April 6, 1992

ALLOCATION OF RECEIPTS TO TRUST FUND

The required procedure for the timely transfer of the gasoline motor fuel and special fuel taxes are detailed in the bond indenture for the 1990 bond issue for TIME Account Projects. This document is a clear expression of the requirements for allocating the funds. The Department of Revenue and Taxation has complied with the provisions of this agreement.

Please let me know if you have any questions or need any additional information.

Sincerely,

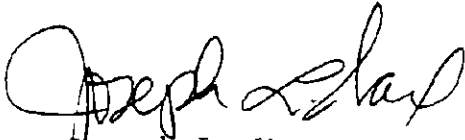

Ralph Slaughter, CPA
Secretary
(504) 925-7680

RS:abd

**Department of
Transportation and
Development's
Responses**

April 6, 1992
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Given the complexity of the Transportation Trust Fund, we feel that you have presented an accurate accounting of events that have occurred since it's inception.

A handwritten signature in dark ink, appearing to read "Joseph L. Wax". The signature is fluid and cursive, with the first name "Joseph" being more prominent and the last name "Wax" following in a similar style.

Joseph L. Wax
Deputy Undersecretary

JLW:drb

cc: Mr. Jerry D. Jones